

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

AMERICAN MORTGAGE INVESTMENT
PARTNERS WILMINGTON SAVINGS FUND
SOCIETY, FSB, D/B/A CHRISTIANA TRUST
AS TRUSTEE OF THE RESIDENTIAL
CREDIT OPPORTUNITIES TRUST V,

Case 1:18-CV-00976 KG-GBW

Plaintiff,

v.

BERTHA BUSTAMANTE, ANY UNKNOWN
SPOUSE OF BERTHA BUSTAMANTE, and
EQUIFIRST CORPORATION,

Defendants.

ORDER GRANTING PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT SEEKING FORECLOSURE

THIS MATTER comes before the Court on Plaintiff's Motion for Default Judgment Seeking Foreclosure. No response to the Motion has been filed and the date for filing a response has passed. There being no opposition to the Motion, the Court hereby GRANTS the Motion for Default Judgment on Foreclosure as follows:

1. No deficiency judgment is sought in this matter.
2. Plaintiff is granted an In Rem Judgment in the amount described below against the real estate described as:

LOT 41, Block 1, MASON FARMS SUBDIVISION UNIT 2, in the County of Dona Ana, State of New Mexico, as shown and designated on the plat thereof, filed in the office of the County Clerk of said county as Plat No. 4040 on October 26, 2004 in Book 21 Page(s) 18-21 of Plat Records.

including any improvements, fixtures, and attachments, such as, but not limited to, mobile homes.

The real property that is the subject matter of this foreclosure action (the "described property") is more commonly known as 606 Missy Ct., Santa Teresa, New Mexico 88008.

3. Defendant Bertha Bustamante has failed to make payments due under the Note and Mortgage attached to the Complaint in this matter. The terms of the Note and Mortgage entitle Plaintiff to foreclose the Mortgage and to have the described property sold in order to collect the principal and interest due and, that total sum is declared to be a lien upon the real estate described above.

4. As more particularly described below, the total judgment amount in favor of the Plaintiff is \$174,492.00 plus an additional \$13.82 per day in interest from the date of July 7, 2018, forward.

5. The judgment amount is the principal balance of \$165,872.01, plus interest accruing on the principal balance at the rate of 3.00% per annum through and including July 6, 2018 in the amount of \$5,045.27 and thereafter accruing at the rate of \$13.82 per day, plus late charges of \$368.17, plus corporate advances and negative escrow balances in the amount of \$3,206.55.

6. Plaintiff's mortgage on the described property is foreclosed and all the described property is ordered sold in accordance with the laws, rules and practices of this Court to the highest bidder, for cash. Such sale shall be as soon as the Special Master can arrange for and publish the sale.

7. David Washburn is hereby appointed as Special Master to conduct such sale. As needed, the special master may appoint an alternative designee to fulfill his obligations as special master without further order of the Court in which case the designee assumes all the special master's responsibilities.

8. The proceeds of this sale shall be applied in the following amounts and in the following priorities:

- a. Cost and expenses of the special master and other foreclosure fees.

- b. Amounts paid by Plaintiff for title commitments, expenses, costs of this action and any tax, assessments or costs which are or may be due under the terms of the note and mortgage.
- c. The amount due to Plaintiff for the principal and interest due on the Note and Mortgage attached to the Complaint, plus interest on the total amount of Plaintiff's Judgment from the date hereof until paid.
- d. The amount due to EquiFirst Corporation which may claim a lien in the described property according to its interest in it and respective priority.
- e. After paying all of the above, should there be any money from the judicial sale left over, it shall be paid to Defendant Bertha Bustamante, the former owner of the Property, according to her interest in it.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that should the proceeds of the judicial sale of the described property be insufficient to pay the full amount of the debt to Plaintiff and the costs of judicial sale, that Plaintiff agrees to waive any deficiency judgment against Defendant Bertha Bustamante.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there are no valid liens or encumbrances on the described property prior to Plaintiff's lien and that Defendants Bertha Bustamante and Antonio Bustamante are adjudged not to have any other rights or interests in the described property, and any rights that they have are hereby foreclosed. These Defendants have disclaimed any interest in the described property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT Defendant EquiFirst Corporation's interest in the property is foreclosed as junior to Plaintiff's mortgage lien. Defendant Equifirst Corporation may claim an interest in the described property based on a second

mortgage that was recorded in the office of the County Clerk of Dona Ana County on April 17, 2007 in Book 806 Pages 593 through 598.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT any interest claimed by any party in the Property that arose subsequent to the recorded notice of lis pendens related to this lawsuit is invalid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants Bertha Bustamante and Antonio Bustamante shall relinquish possession of the described property on or before fourteen (14) days from the date of this Order unless Plaintiff agrees. Plaintiff shall be entitled to an order directing an appropriate law enforcement official to remove any and all occupants from the described property and putting Plaintiff in possession until the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Special Master will execute and deliver to the purchaser or purchasers of the described property a good and sufficient special master's deed or sale receipt when the special master's report is approved by this Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the purchaser of the described property be let into possession of the same on production of the special master's deed or sale receipt.

THEREFORE, this purchaser shall hold the described property free and clear of all right, title and interest of Defendants, as well as all persons claiming under them subsequent to the execution of the involved note and mortgage at issue in this foreclosure action. Defendants are hereby and forever barred and foreclosed from having or claiming any right, title or interest in the described property adverse to the purchaser, therefore, except only the right of redemption allowed by the law.

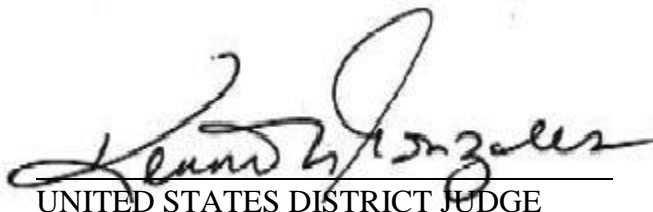
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if personal property remains on the described property after entry of the order approving sale in this matter that the

personal property is deemed abandoned and the purchaser may dispose of the personal property in any manner pursuant to applicable law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff may bid at such sale or may become said purchaser of the described property foreclosed herein and that Plaintiff may bid the full or partial amount of its Judgment as a credit bid at the foreclosure sale for the described property in lieu of bidding cash.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the period of redemption shall be one (1) month.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff has the right to file transcripts of judgment in the property records and other necessary filings in the property records to effectuate this Order and to effectuate transfer of the property.



UNITED STATES DISTRICT JUDGE

SUBMITTED BY:

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Ryan M. Walters
Ryan M. Walters
Attorneys for Plaintiff
8801 Horizon Blvd. NE, Suite 300
Albuquerque, NM 87113
505-828-3600
Ryan.Walters@lewisbrisbois.com

APPROVED BY:

(interest in property disclaimed and consent to judgment filed of record)
Bertha Bustamante

606 Missy Ct.
Santa Teresa, NM 88008

(interest in property disclaimed and consent to judgment filed of record)

Antonio M. Bustamante
606 Missy Ct.
Santa Teresa, NM 88008

(no response received)

Equifirst Corporation
150 Fayetteville St., Box 1011
Raleigh, NC 27601

-- and --

c/o New Mexico Secretary of State
325 Don Gaspar, Suite 300
Santa Fe, NM 87503